



Alan C. Lloyd, Ph.D.  
Agency Secretary

**California Regional Water Quality Control Board**  
**North Coast Region**  
**John Corbett, Chairman**

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**Arnold**  
**Schwarzenegger**  
*Governor*

February 17, 2006

Mr. David Kelley  
Town of Windsor  
9291 Old Redwood Highway  
Windsor, CA 95492

Dear Mr. Kelley:

**Subject:** Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for Windsor Preschool and Affordable Housing Project in Windsor, Sonoma County

**File:** Windsor Preschool and Affordable Housing Project in Windsor, Sonoma County, WDID# 1B05087WNSO

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341). It is being issued in response to the Town of Windsor's June 27, 2005 request for a Clean Water Act, Section 401, Water Quality Certification. On June 27, 2005, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Lucy Macmillan, on behalf of the Town of Windsor, requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) (Section 401 Permit) for the Windsor Preschool and Affordable Housing Project in Windsor, Sonoma County, WDID No. 1B05087WNSO. An Additional Information Request was sent out to the applicant on July 25, 2005. On November 15, 2005, the Regional Water Board received a package from Ms. Macmillan, which contained the requested information. The application was deemed complete on December 15, 2005. The proposed project causes disturbances to waters of the state associated with an unnamed ephemeral drainage of Starr Creek and the Russian River Hydrologic Unit No.114.00.

**Project Description:** The proposed project is located northeast of the intersection of Windsor Road and Joe Rodata Drive, adjacent to the Town of Windsor Civic Center, in Windsor, Sonoma County. The project is located on Town of Windsor property.

The proposed project consists of the construction of construction of affordable housing and a pre-school facility, which would provide six apartment units for families with young children,

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including a person or family with physical disabilities and early childhood education for approximately 96 pre-school and toddler-aged Windsor children. Specifically, the project involves construction of five 2-bedroom units and one 1-bedroom unit, each approximately 900 square feet, on the second floor. The first floor will include two preschool rooms and one toddler room. Additional supportive space for the pre-school facility will be located on the first floor (i.e. lobby, office space, kitchen, conference room, and restrooms). The footprint of the overall building structure will be approximately 6,000 square feet. Other site improvements will include parking, an outdoor recreation area, and a passive park area.

The project will result in the filling and permanent loss of approximately 110 linear feet of ephemeral drainage feature that is tributary to Starr Creek.

Receiving Water: An unnamed ephemeral drainage of Starr Creek and the Russian River Hydrologic Unit No. 114.00.

Federal Permit: Applied to the U.S. Army Corps of Engineers for a Clean Water Act Section 404 Permit.

Filled or  
Excavated Area: Total Area Impacted: 0.00 acres of wetland habitat  
Area Temporarily Impacted: 0.00 acres  
Area Permanently Impacted: 0.00 acres  
  
Total Linear Impacts: 110.0 linear feet impacted  
Length Temporarily Impacted (Restored): 0.000 linear feet  
Length Permanently Impacted (Not Restored): 110.0 linear feet

Compensatory  
Mitigation Overview: Total Mitigation Area: 1.00 acres  
Wetland Created/Restored: 0.00 acres  
Wetland Enhanced: 0.00 acre  
Wetland Existing (Avoided): 0.00 acre  
  
Total Linear Mitigation: 220 linear feet  
Linear Stream Restored: 0.00 linear feet  
Linear Stream enhanced: 220 linear feet

Compensatory Mitigation: Compensatory mitigation for this project will include protection and enhancement of a healthy stand of native oak trees on the project site that encompasses a portion of unaffected ephemeral drainage, as well as implementation of a restoration project,

referred to as the Starr Creek Tributary Restoration and Mitigation Plan (SCTRMP), to be conducted at Keiser Park in Windsor. The project includes enhancement of approximately 220 linear feet of Starr Creek, located on the Keiser Park property.

The initial portions of the SCTRMP project involved removal of invasive non-native vegetation located in an approximately 1.0 acre native oak woodland/riparian area, located adjacent to Starr Creek Tributary No. 7, within Keiser Park, Windsor. The vegetation removal was conducted in the Fall of 2004, and largely consisted of the removal of large mature eucalyptus trees. The trees were removed from the riparian zone to allow restoration efforts to take place within the 1.0-acre area to re-establish native oak woodlands and native riparian species.

The Town of Windsor is proposing to implement the SCTRMP within the removal area subsequent to issuance of the Section 401 permit, to complete the restoration efforts prior to the project impacts. The purpose of the SCTRMP is to provide mitigation for the project impacts, and includes the planting of 161 native plant and trees in an area totaling 0.14 acres. The goal of the SCTRMP is to improve the habitat value of the oak woodland and riparian zone, by providing a diversity of native plant species. Circuit Rider Productions will conduct the plantings and will maintain the plantings for a 5-year period. Annual monitoring reports shall be prepared by the applicant and submitted to the Regional Water Board, as well as the California Department of Fish and Game, Army Corps of Engineers and the Town of Windsor.

Noncompensatory  
Mitigation:

Non-compensatory mitigation measures include the use typical erosion control Best Management Practices (BMPs) during construction. In addition, the Town of Windsor is currently preparing a plan for the post-construction stormwater treatment BMPs that will be incorporated into the project design.

Post Construction Storm  
Water Pollution Prevention:

To deal with the Regional Water Board's requirement to provide post-construction storm water treatment for the proposed project the Applicant will implement the BMPs designed to treat the runoff from the 85<sup>th</sup> percentile storm event. Failure to implement the treatment BMPs will be considered a violation of this Water Quality Certification, and is subject to Regional Water Board enforcement actions. A report, with photo documentation, illustrating installed BMPs shall be submitted to the Regional Water Board by December 31, 2006.

- CEQA Compliance: The Town of Windsor, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project qualifies for Mitigated Negative Declaration pursuant to the California Environmental Quality Act (CEQA). The Town Council of the Town of Windsor adopted the final Mitigated Negative Declaration on October 1, 2003 (Resolution No. 1443-03).
- Standard Conditions: Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:
- 1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and 23 CCR 3867.
  - 2) This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
  - 3) The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR 3833, unless otherwise stated in writing by the certifying agency.
- Additional Conditions: Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:
- 1) The Regional Water Board shall be notified in writing at least five working days (working days are Monday – Friday) prior to the commencement of grading work, with details regarding the construction schedule, in order to allow staff to be present on-site during construction, and to answer any public inquiries that may arise regarding the project.
  - 2) No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or be placed where it may

be washed by rainfall into waters of the State. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.

- 3) Best Management Practices for sediment and turbidity control shall be implemented and in place prior to, during, and after construction in order to ensure that no silt or sediment enters surface waters.
- 4) All fill material used on the site shall be clean and free of contaminants. A characterization report for all imported fill materials shall be provided to the Regional Water Board prior to the commencement of grading work.
- 5) A copy of this permit must be provided to the Contractor and all subcontractors conducting the work, and must be in their possession at the work site.
- 6) If, at any time, a discharge to surface waters occurs, or any water quality problem arises, the project shall cease immediately and the Regional Water Board shall be notified promptly.
- 7) Construction and mitigation work will be implemented as proposed in the application and the following monitoring shall occur:
  - A. The applicant shall monitor the mitigation site on a semi-annual basis and prepare an annual report including photo documentation as to the success of the re-vegetation efforts. It is expected that at the end of the monitoring period, in this case 3 years, there will be at least an 80 percent survival rate.
- 8) Instream work shall not commence until June 15<sup>th</sup> and all work within the waterway shall be complete prior to October 15<sup>th</sup>.
- 9) The overall design and development of Windsor Preschool and Affordable Housing Project shall include post-construction storm water BMPs into the project to mitigate for storm water discharges associated with post-development of the site. BMPs shall be implemented into the project as outlined above in the Non-compensatory mitigation section of this order, and proof of installation shall be provided in a final report to be

submitted no later than December 31<sup>st</sup> of the year following construction of the project.

- 10) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the Project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order.

- 11) The Applicant shall provide photos of the completed work to the appropriate Regional Water Board staff person, in order to document compliance. The Applicant shall also provide photos of the completed work areas after the first significant rainfall event in order to ensure that erosion control has been successful.

Water Quality Certification: I hereby issue an order [23 CCR Subsection 3831(e)] certifying that the authorized discharge from Windsor Preschool and Affordable Housing Project in Windsor, Sonoma County, (Facility WDID No. 1B05087WNSO) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act [33 USC Subsection 1341 (a)(1)] , and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification (Enclosed).

Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being

limited and all proposed mitigation being completed in strict compliance with the applicant's project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration: The authorization of this certification for any dredge and fill activities expires on October 31, 2010. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Andrew Jensen of our staff at (707) 576-2670 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine E. Kuhlman  
Executive Officer

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Enclosure: State Water Resources Control Board Order No. 2003-0017-DWQ, General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification.

cc: Ms. Lucy Macmillan, Wetlands and Regulatory Specialist, 28 Bernard Street, Suite 4,  
Mill Valley, CA 94941  
Mr. Oscar Balaguer, SWRCB, 401 Program Manager, Clean Water Act Section  
401 Certification and Wetlands Unit Program (\*\*Always include)  
Mr. Liam Davis, Department of Fish and Game, Region 3, P.O. Box 47,  
Yountville, CA 94599  
Mr. Philip Shannin, U.S. Army Corps of Engineers, Regulatory Branch, 333 Market Street,  
San Francisco, CA 94105